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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/827,613 | 04/06/2001 | Eric J. Sprunk | 18926-003140 | 6987 |

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| EXAMINER | |
|---|---|
| USTARIS, JOSEPH G | |
| **ART UNIT** | **PAPER NUMBER** |
| 2617 | |

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/827,613 | SPRUNK, ERIC J. | |
| | Examiner | Art Unit | |
| | Joseph G. Ustaris | 2617 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *21 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-3,5-10,16 and 18-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 5-10, 16, and 18-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

1. This action is in response to the amendment dated 21 November 2005 in application 09/827,613. Claims 1-3, 5-10, 16, and 18-28 are pending. Claims 1, 16, 27, and 28 are amended.

The objection to the drawings, specification, and claims 27 and 28 are now withdrawn in view of the amendments.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5-10, 16, and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan, Jr. et al. (US005654746A) in view of Smith et al. (US005581270A).

Regarding Claim 1, McMullan et al. (McMullan) discloses a method for securing an object associated with a content receiver that is part of a conditional access system comprising receiving the object (video game data, Col. 3, Lines 49-53 and Col. 5, Lines 38-50) by the content receiver (See Figure 1, 177) and loading the object into memory (Col. 6, Line 64 - Col. 7, Line 12). A user is able to use the system for specific amounts of time (arcade mode, Col. 10, Line 58-63 and Col. 11, Lines 4-12). Upon ordering a

game, an authorization message including an amount of playtime is transmitted to the user's terminal (Col. 11, Lines 29-38). During play, a memory storing the amount of time available is decremented for each time unit of play (Col. 14, Lines 35-43). This reads on the claimed beginning a timer counting (decrementing the playtime available). Continual checks are made to determine if the amount of playtime available stored in memory reaches zero (playtime expires) so that the system may terminate game play (Col. 7, Lines 57-61, Col. 12, Lines 29-30 and Col. 14, Lines 40-43). This reads on the claimed determining when the timer expires and executing an event that correlates with the determining step (if remaining playtime is zero, halting play). Further, since the playtime available stored in memory is now zero, the system will no longer allow a user to begin playing another game (Co1. 12, Lines 7-23). This reads on the claimed changing an authorization status (setting playtime to zero) based on the determining step. However, McMullan does not disclose that the executing step comprises a step of querying a user of the receiver for purchase of the object.

Smith et al. (Smith) discloses a user terminal for receiving gaming content (Col. 3, Lines 58-64) wherein a guest is operable to purchase an amount of playtime and a check is made to see if the playtime has been exceeded (Col. 10, Lines 8-11). When the user runs out of playtime, a menu is displayed including an option to buy more time (Col. 10, Lines 11-15). Once more time is purchased, the system is operable to continue game play (Col. 9, Lines 19-27). This reads on the claimed querying a user for purchase of the object. Smith is evidence that one of ordinary skill in the art would appreciate the ability to allow a user to purchase continued use of an interactive offering. Therefore, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of McMullan with the additional playtime purchase of Smith in order to increase revenue by allowing continued use of a service without forcing a user to leave a game in progress.

Regarding Claim 2, McMullan discloses a method as stated above in Claim 1, wherein the executing step comprises the step of executing an action in correlation to the determining step as stated above. This action (continuing or halting game play if playtime has or has not expired) reads on the claimed checkpoint.

Regarding Claim 3, McMullan discloses a method as stated above in Claim 2, wherein the checkpoint either authorizes play (timer has not reached zero) or de-authorizes play (timer has reached zero). This reads on the claimed authorizing use of the object by the content receiver.

Regarding Claim 5, McMullan discloses a method as stated above in Claim 1, further comprising a step of changing the authorization status based on the executing step as stated above in Claim 3.

Regarding Claim 6, McMullan discloses a method as stated above in Claim 1, wherein the receiving step comprises downloading the object from an authorized data channel (Col. 5, Lines 38-39) in an encrypted form (Col. 7, Lines 20-25).

Regarding Claim 7, McMullan discloses a method as stated above in Claim 1, wherein the loading step comprises the step of loading the object in volatile memory IDRAM, see Figure 2).

Regarding Claim 8, McMullan discloses a method as stated above in Claim 1, wherein the beginning step comprises a step of receiving the playtime data as stated above. This reads on the claimed determining a time value (amount of playtime available to the user) that the timer measures.

Regarding Claim 9, McMullan discloses a method as stated above in Claim 1, wherein the determining step is executed on a security processor (ASIC 200, Col. 14, Lines 40-43) separate from a general-purpose processor (Co1. 6, Lines 6-7).

Regarding Claim 10, McMullan discloses a method as stated above in Claim 1, further comprising a step of removing the object from the memory (by resetting the device) based upon the changing step as stated above.

Regarding Claim 16, see Claim 8 above. The time valued is a predetermined value based on the amount of time the user has purchased (Col. 11, Lines 10-12).

Regarding Claim 18, see Claim 1 above.

Regarding Claim 19, McMullan in view of Smith disclose a method as stated above in Claim 18. McMullan further discloses that the terminal is operable to receive authorization including playtime (Col. 11, Lines 29-37) in an encrypted communication (Col. 7, Lines 20-25) from the service provider. This reads on the claimed remotely changing a time for the content receiver using encrypted commands wherein the timer is correlated to the time.

Regarding Claim 20, McMullan in view of Smith disclose a method as stated above in Claim 18. Smith further discloses that if the user opts to purchase more time,

game play is allowed to continue as stated above in Claim 1. This reads on the claimed changing the authorization status based on the querying step.

Regarding Claim 21, see Claim 6 above.

Regarding Claims 22-25, see Claims 7-10 above, respectively.

Regarding Claim 26, see Claim 18 above. The beginning a timer counting and determining when the timer expires of Claim 18 read on the claimed beginning a usage counter counting and determining when the usage counter reaches a limit.

Regarding Claim 27, see Claim 20 above.

Regarding Claim 28, see Claims 10 and 25 above.

***Response to Arguments***

3. Applicant's arguments filed 21 November 2005 have been fully considered but they are not persuasive.

Applicant argues with respect to claims 1, 18, and 26 that McMullan and Smith do not disclose querying a user of the content receiver for purchase of the object. However, reading the claims in the broadest sense, McMullan in view of Smith does meet the limitations of the claims. A user initially purchases playtime in order to play games. Once the playtime runs out the user is given a menu option to purchase more time to the play the game. This reads on the claimed querying a user for purchase of the object (See claim 1 rejection above).

Applicant further argues that both McMullan and Smith require the extra step of having the subscriber purchase content before it is downloaded. However, the claims do not recite any limitations that prevent the subscriber of making any initial purchases.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGU
January 31, 2006

VIVEK SRIVASTAVA
PRIMARY EXAMINER